REMARKS

The requirement for restriction is respectfully traversed. The examiner has applied an erroneous legal standard. MPEP §801 states: "This chapter is limited to a discussion of the subject of restriction and double patenting under Title 35 of the United States Code and Title 37 of the Code of Federal Regulations as it relates to national applications filed under 35 U.S.C. 111(a). The discussion of unity of invention under the Patent Cooperation Treaty Articles and Rules as it is applied as an International Searching Authority, International Preliminary Examining Authority, and in applications entering the National Stage under 35 U.S.C. 371 as a Designated or Elected Office in the U.S. Patent and Trademark Office is covered in Chapter 1800."

This application is a national stage entry of PCT/EP2003/014331, which was filed on December 16, 2003. Thus, the examiner is respectfully directed to PCT Rule 13. The appropriate legal standard regarding restriction is whether "[t]he international application ... relate[s] to one invention only or to a group of inventions so linked as to form a single general inventive concept."[1] Furthermore, "[w]here a group of inventions is claimed in one and the same international application, the requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art."[2] It is respectfully submitted that the present invention properly relates to a single general inventive concept. The formulation as claimed in claim 1 "define[s] a contribution which each of the claimed inventions, considered as a whole, makes over the prior art,"[3] and therefore constitutes the "one or more of the same or corresponding special technical features," which are involved in the technical relationship between the embodiments of applicants' invention(s). Each embodiment of the claimed invention requires this formulation, thus the requirement of unity of invention referred to in Rule 13.1 is fulfilled. In other words, the present requirement for restriction is inappropriate under the proper

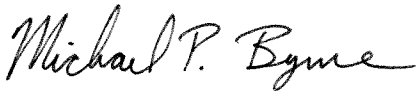
[1] PCT RULE 13.1.
[2] PCT RULE 13.2.
[3] PCT RULE 13.2.

"Unity of Invention" standard. The restriction requirement should be withdrawn. Favorable action is solicited.

PROVISIONAL ELECTION

In compliance with the requirements of 37 C.F.R. §1.143, applicants provisionally elect Group I with traverse. Group I, as indicated in the restriction requirement of October 5, 2006 includes claims 1-13, and 16 drawn to pharmaceutical formulation, classified in class 424, subclass 484. Applicants also provisionally elect species (a). Species (a), as indicated in the restriction requirement of October 5, 2006 includes hydroxypropylmethylcellulose phthalate and cellulose acetate phthalate.

Respectfully submitted,
NOVAK DRUCE & QUIGG, LLP



Michael P. Byrne
Registration No.: 54,015

1300 Eye St. N.W.
400 East Tower
Washington, D.C. 20005
Phone: (202) 659-0100
Fax: (202) 659-0105